

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA
RENO, NEVADA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	Case No.: 3:17-cr-00075-HDM-VPC
)	
vs.)	
)	MINUTES OF COURT
RAFAEL DELGADO-ZUFFY,)	
)	
Defendant.)	April 17, 2018
)	
	/	

PROCEEDINGS: JURY TRIAL (Day One)

PRESENT:

THE HONORABLE HOWARD D. McKIBBEN, SENIOR U.S. DISTRICT JUDGE

Deputy Clerk: Paris Rich Reporter: Kathy French

Counsel for Plaintiff: Brian Sullivan, AUSA

Counsel for Defendant: Christopher Frey, AFD and Lauren Gorman, AFD

At 8:51 a.m., the Court convenes.

Defendant Rafael Delgado-Zuffy (In Custody without restraints) is present in street clothes attire with counsel. Also, present is FPD Investigator Christian Filipiak and Ixtla Malagon (previously sworn), stand-by, certified Spanish interpreter.

The Government's counsel is present with Daniel Carnow, United States Department of Homeland Security, U.S. Immigration and Customs Enforcement.

The Court canvasses the Defendant regarding his full understanding of the advisements at the initial appearance held on September 14, 2017. The Defendant confirms he understood the September 14, 2017 proceedings and reconfirms his earlier entered not guilty plea.

The Court advises counsel regarding jury procedures. Counsel stipulate to the procedure for *Batson* challenges and to the random draw of the jury.

The Court and counsel discuss the proposed voir dire.

At 9:05 a.m., forty-three (43) prospective jurors enter the courtroom.

The Court presents opening remarks and introduces counsel. The Court further summarizes this action and the anticipated trial schedule. The Courtroom Clerk administers the voir dire oath and 32 prospective jurors are seated; voir dire proceeds.

The jury is passed for cause. Counsel exercise peremptory challenges.

At 11:09 a.m., Counsel stipulate to the 14 seated jurors. The 14 jurors are empaneled and sworn. The Court thanks and excuses the remaining jurors for a period of two years.

The Court presents statements to the jury regarding the anticipated trial progression.

At 11:16 a.m., the jury is admonished and excused.

The Court stands at recess

At 11:38 a.m., the Court reconvenes outside the presence of the jury. The Court and counsel discuss the presentation of the opening statements.

At 11:41 a.m., the jury enters the courtroom. All jurors are present.

On behalf of the Government, Mr. Sullivan presents opening statements.

On behalf of the Defendant, Ms. Gorman presents opening statements.

At 11:56 a.m., the jury is admonished and excused until 1:00 p.m. this date.

The Court stands at recess.

At 1:00 p.m., the Court reconvenes outside the presence of the jury.

Mr. Frey invokes the rule of exclusion. Mr. Frey further addresses the Court's prior ruling and caution regarding prior convictions.

At 1:02 p.m., the jury enters the courtroom.

RICHARD FISH, Deportation Officer, United States Department of Homeland Security, U.S. Immigration and Customs Enforcement, called on behalf of the Government, is sworn, examined on direct by Mr. Sullivan, cross-examined by Mr. Frey, examined on redirect by Mr. Sullivan, examined on re-cross by Mr. Frey, and excused.

RYAN FRANCO, Deportation Officer, United States Department of Homeland Security, U.S. Immigration and Customs Enforcement, called on behalf of the Government, is sworn, examined on direct by Mr. Sullivan, cross-examined by Mr. Frey, examined on redirect by Mr. Sullivan, and excused.

JENNIFER SWIERGIEL, United States Department of Homeland Security, U.S. Citizenship and Immigration Services, Fraud Detection and National Security Office, called on behalf of the Government, is sworn, examined on direct by Mr. Sullivan, and released subject to recall.

IT IS ORDERED, the Government's Exhibits 1 through 8 and 10 through 17 are received into evidence.

At 1:59 p.m., the jury is admonished and excused.

Outside the presence of the jury, the Court and counsel discuss the Government's Exhibits 17, 18, and 19 and related witness testimony.

IT IS ORDERED, the Defense objection to the admission of the Government's Exhibits 18 and 19 is sustained.

IT IS FURTHER ORDERED, with no objection by the Defense, the Government's Exhibit 18 (transcript of CBP Interview 3/18/15) may be used by the jury as an aid only while watching the Government's Exhibit 17.

At 2:09 p.m., the Court stands at recess.

At 2:21 p.m. the Court reconvenes outside the presence of the jury.

The Court and counsel discuss the remaining trial witnesses. The Court summarizes the rulings on the Government's Exhibits 17, 18, and 19.

IT IS ORDERED, the Government's Exhibit 9 is received into evidence.

At 2:26 p.m., the jury enters the courtroom.

The Court addresses the admission of the Government's Exhibit 17 and the aid only use of the Government's Exhibit 18.

The Government's Exhibit 17 is broadcast to the jury.

JENNIFER SWIERGIEL, United States Department of Homeland Security, U.S. Citizenship and Immigration Services, Fraud Detection and National Security Office, resumes the witness stand, is further examined on direct by Mr. Sullivan, cross-examined by Mr. Frey, and excused.

RENEE ARMSTRONG, Supervising Criminalist, Washoe County Sheriff's Office, Forensic Science Division, called on behalf of the Government, is sworn, examined on direct by Mr. Sullivan, cross-examined by Mr. Frey, examined on redirect by Mr. Sullivan, examined on re-cross by Mr. Frey, and excused.

The Government rests.

The Court advises the jury regarding the remaining trial schedule.

At 3:54 p.m., the jury is admonished and excused until Wednesday, April 18, 2018 at 8:30 a.m.

Outside the presence of the jury, the Court and counsel discuss the jury instructions and video witness scheduled for April 18, 2018 at 8:30 a.m.

The Court and counsel further discuss in detail the upcoming Defense witnesses and Defense theory.

The Court provides counsel with proposed jury instructions for review.

IT IS ORDERED, Jury Trial (Day Two) is set for Wednesday, April 18, 2018 at 9:00 a.m. in Reno Courtroom 4 before Judge Howard D. McKibben. IT IS SO ORDERED.

The Defendant is remanded to custody.

At 4:28 p.m., the Court adjourns.

DEBRA K. KEMPI, CLERK

By: /s/ Paris Rich
Deputy Clerk